85-979

No.

Supreme Court, U.S.
FILED
DEC 7 1985
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1985

M. FRANCIS SVENDROWSKI,
Appellant,

vs.

STATE OF MISSOURI,
Respondent.

On Appeal from the Supreme Court of Missouri

JURISDICTIONAL STATEMENT

M. FRANCIS SVENDROWSKI
Box 245, RFD #1
Farmington, Missouri 63640
(314) 756-6842
(314) 832-5933
Defendant Pro Se

St. Louis Law Printing Co., Inc., 411 No. Tenth Street 63101 314-231-4477

No.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1985

M. FRANCIS SVENDROWSKI,
Appellant,

vs.

STATE OF MISSOURI,
Respondent.

On Appeal from the Supreme Court of Missouri

JURISDICTIONAL STATEMENT

QUESTIONS PRESENTED FOR REVIEW

1. Is Section 302.181 of the Revised Statutes of Missouri in accord with the Constitution of the United States? (Defendant alleges that errors noted in his original appeal, to the Missouri Court of Appeals, are subsidiary questions fairly included therein.)

2. Is the Tax Reform Act of 1976 in accord with the Constitution of the United States?

3. Is a citizen required to obey an alleged law which requires him to violate his conscience as well as having no apparent basis in the Constitution?

OPINIONS BELOW

1. Verdict and Judgment of the Circuit Court are contained in the Transcript of the case. (This is in the possession of the Missouri Court of Appeals.)

2. Judgment of the Missouri Court of Appeals is reprinted herein as Appendix A.

3. Refusal by the Supreme Court of Missouri to review judgment is reprinted herein as Appendix B.

GROUNDS FOR JURISDICTION

(i) The Appeal is from a Supreme Court of Missouri decision not to review the case.

(ii) Judgment of the Supreme Court was rendered on September 10, 1985.

(Defendant was informed verbally by the Clerk of the Missouri Supreme Court that a request for rehearing of the decision would be refused.)

Notice of Appeal was filed December 2, 1985.

(iii) Jurisdiction of the U. S. Supreme Court is in accord with:

Constitution of the United States, Article III, Section 2, Paragraph 2.

Amendment XIV, Section 1

Marbury v. Madison, 1 Cranch 137

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

Constitution of the United States, Article I, Section 8, Clause 1

"The Congress shall have Power to lay and collect Taxes, Duties, Imports and Excises, to pay the Debts and provide for the Common Defence and general Welfare of the United States;..."

Amendment I

> "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;..."

Amendment XVI

> "The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration."

Tax Reform Act of 1976, 94-455 Section 1211

> "It is the policy of the United States that any state...may in the administration of any tax, general public assistance, driver's license, or motor vehicle registration law within its jurisdiction, utilize the social security account numbers issued by the Secretary for the purpose of establishing the identification of individuals affected by such law and may require any individual...to furnish to such state...the social security account number...issued to him by the Secretary."

302.181 Revised Statutes of Missouri

> "All licenses shall bear the licensee's Social Security Number or Tax Identification Number, if the licensee has one."

STATEMENT OF THE CASE

On January 7, 1983, Defendant applied for renewal of his Driver's License. He was informed of provisions of 302.181 RSMo at that time. Defendant considered section 302.181 to be unconstitutional and therefore refused to comply.

On July 28, 1983 Defendant was driving without a license and was issued a citation.

In Jury Trial Defendant was refused the right to pursue Constitutional arguments; therefore he was convicted. Appeal was taken to the Missouri Court of Appeals.

Constitutionality was first raised in the Court of first instance (Circuit Court for the 24th District of Missouri) in Motion to Deny Limine.

Conscience was first raised in the same court during verbal testimony; presentation was stopped by the Judge.

These matters were raised in the Missouri Court of Appeals in Brief and in verbal presentation. Both were totally ignored in a decision which failed to address them in any way. The decision begged the question of Constitutionality but refused to address it.

SUBSTANTIALITY OF QUESTIONS

Questions presented are substantial in that they deal both with Constitutionality of alleged laws and with matters of conscience. The benefit of oral argument is that it makes possible questions from the court since all parties are present.

Respectfully submitted,

M. Francis Svendrowski
Box 245, RFD #1
Farmington, Missouri 63640
(314) 756-6842
(314) 832-5933
Defendant/Appellant Pro Se

APPENDIX

APPENDIX A

IN THE MISSOURI COURT OF APPEALS
EASTERN DISTRICT
Southern Division

No. 48669

State of Missouri, Respondent,

vs.

Marion F. Svendrowski, Appellant.

Appeal from the Circuit Court of St. Francois County
Hon. Stanley J. Murphy
OPINION FILED: May 7, 1985

Defendant appeals from a jury conviction of the misdemeanor grade offense of operating a motor vehicle without a license in violation of § 302.020, RSMo 1978. He was fined $100.00. We affirm.

Defendant asserts the state had no right to require his social security number as a condition precedent to the issuance of his driver's license. A driver's license is a privilege or qualified right. Blydenburg v. David, 413 S.W.2d 284, 289 (Mo.banc 1967). It was reasonabe to require defendant furnish his social security number for identification purposes as a condition precedent to the issuance of his driver's license. There was no constitutional infirmity. Conant v. Hill, 326 F.Supp. 25 (E.D.Va. 1971).

No jurisprudential purpose would be served by an extended opinion. The judgment of the trial court is affirmed pursuant to Rule 30.25 (b).

/s/ Robert E. Crist, Judge

/s/ Robert G. Dowd, Presiding Judge, Concurs
/s/ William H. Crandall, Jr., Judge, Concurs

APPENDIX B

NO. 67251

ED 48669

IN THE SUPREME COURT OF MISSOURI

September Session 1985

State of Missouri,
Respondent,

vs.

Marion F. Svendrowski,
Appellant.

TRANSFER

Now at this day, on consideration of appellant's Application to transfer the above entitled cause from the Eastern District Court of Appeals, it is ordered that said application be, and the same is hereby denied.

STATE OF MISSOURI — SCT.

I, Thomas F. Simon, Clerk of the Supreme Court of the State of Missouri, certify that the foregoing is a full, true and complete transcript of the judgment of said Supreme Court, entered of record at the September Session thereof, 1985, and on the 10th day of September, 1985, in the above entitled cause.

Given under my hand and seal of said Court, at the City of Jefferson City, this 10th day of September, 1985.

/s/ Thomas F. Simon, Cerk